



May 2, 2000

Mr. Steven D. Monté
Assistant City Attorney
City of Dallas
2014 Main Street, Room 206
Dallas, Texas 75201

OR2000-1705

Dear Mr. Monté:

You ask whether certain information is subject to required public disclosure under chapter 552 of the Government Code. Your request was assigned ID#136434.

The City of Dallas (the “city”) received a request for “all calls for service and any offense reports (include supplements) made by anyone from” a specified residence since January 1, 1996, and “any arrest record on the resident at this house,” naming the individual. You request a ruling from this office as to the arrest records on the named individual, stating that you believe the request requires you to compile a criminal history; therefore, you assert that the information is excepted from disclosure under section 552.101 of the Government Code. As you do not ask this office for a ruling as to the calls for services at the residence, we assume that you have released that information. We have considered the exception you claim and reviewed the submitted information.

Section 552.101 of the Government Code excepts from disclosure “information considered to be confidential by law, either constitutional, statutory, or by judicial decision.” Under the authority of *United States Department of Justice v. Reporters Committee for Freedom of the Press*, 489 U.S. 749 (1989), when an individual’s criminal history information has been compiled or summarized by a governmental entity, the information takes on a character that implicates the individual’s right of privacy in a manner that the same records in an uncompiled state do not. Thus, when a requestor asks for all information concerning a certain named individual and that individual is a possible suspect, a law enforcement agency must withhold this information under section 552.101 because that individual’s privacy right has been implicated. *See id.* We agree that the requestor seeks criminal records as contemplated by the court in *Reporters Committee*. Therefore, the city must withhold, under the common law privacy principles set out in that case, any information responsive to the request in which the individual in question is treated as a suspect, arrestee, or defendant.

This letter ruling is limited to the particular records at issue in this request and limited to the facts as presented to us; therefore, this ruling must not be relied upon as a previous determination regarding any other records or any other circumstances.

This ruling triggers important deadlines regarding the rights and responsibilities of the governmental body and of the requestor. For example, governmental bodies are prohibited from asking the attorney general to reconsider this ruling. Gov't Code § 552.301(f). If the governmental body wants to challenge this ruling, the governmental body must appeal by filing suit in Travis County within 30 calendar days. *Id.* § 552.324(b). In order to get the full benefit of such an appeal, the governmental body must file suit within 10 calendar days. *Id.* § 552.353(b)(3), (c). If the governmental body does not appeal this ruling and the governmental body does not comply with it, then both the requestor and the attorney general have the right to file suit against the governmental body to enforce this ruling. *Id.* § 552.321(a).

If this ruling requires the governmental body to release all or part of the requested information, the governmental body is responsible for taking the next step. Based on the statute, the attorney general expects that, within 10 calendar days of this ruling, the governmental body will do one of the following three things: 1) release the public records; 2) notify the requestor of the exact day, time, and place that copies of the records will be provided or that the records can be inspected; or 3) notify the requestor of the governmental body's intent to challenge this letter ruling in court. If the governmental body fails to do one of these three things within 10 calendar days of this ruling, then the requestor should report that failure to the attorney general's Open Government Hotline, toll free, at 877/673-6839. The requestor may also file a complaint with the district or county attorney. *Id.* § 552.3215(e).

If this ruling requires or permits the governmental body to withhold all or some of the requested information, the requestor can appeal that decision by suing the governmental body. *Id.* § 552.321(a); *Texas Department of Public Safety v. Gilbreath*, 842 S.W.2d 408, 411 (Tex. App.--Austin 1992, no writ).

If the governmental body, the requestor, or any other person has questions or comments about this ruling, they may contact our office. Although there is no statutory deadline for contacting us, the attorney general prefers to receive any comments within 10 calendar days of the date of this ruling.

Sincerely,



Patricia Michels Anderson
Assistant Attorney General
Open Records Division

PMA/ljp

Ref: ID# 136434

Encl. Submitted documents

cc: Mr. Gil Hernandez
Farmers Insurance
P.O. Box 381997
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(w/o enclosures)